

**Department of State Health Services
Council Agenda Memo for State Health Services Council
February 24-25, 2016**

Agenda Item Title: Amendment to a rule concerning the Youth Camp Training Advisory Committee

Agenda Number: 4.e.

Recommended Council Action:

☐ For Discussion Only

☒ For Discussion and Action by the Council

Background:

The Policy/Standards/QA Unit, located in the Environmental and Community Safety Section of the Regulatory Services Division, develops policies, rules, and standards and provides quality assurance for environmental and consumer safety compliance functions. The unit establishes the licensure requirements relating to health and safety conditions at youth camps in Texas and provides administrative support for the Youth Camp Advisory Committee and the Youth Camp Training Advisory Committee.

The program is funded by federal funds and by general revenue.

Summary:

Senate Bill 277, 84th Legislature, Regular Session, 2015, repealed Health and Safety Code, Section 141.0096, abolishing the Youth Camp Training Advisory Committee in statute; therefore, the rule associated with this statute must also be amended. 25 TAC §265.29 currently includes both the Youth Camp Training Advisory Committee and the Youth Camp Advisory Committee. This amendment will remove the Youth Camp Training Advisory Committee from the rule.

The committee was one of several advisory committees recommended for abolishment by the Sunset Advisory Commission during the 2014 review of the department. The committee has not met since 2005 and has no active members. It was statutorily directed to provide DSHS and HHSC advice in the development of criteria and guidelines for the training and examination program on sexual abuse and child molestation. The training guidelines have not been revised during this time and there has been no reason for the committee to meet.

DSHS will continue to obtain input as needed on youth camp training through the Youth Camp Advisory Committee and ongoing interactions with youth camp representatives.

Key Health Measures:

Since the Youth Camp Training Advisory Committee has not met since 2005, there is no anticipated impact to abolishing this committee. DSHS has other avenues to obtain input on rules and guidelines for youth camps and training for youth camp staff.

Summary of Input from Stakeholder Groups:

The Health and Human Services Commission conducted a comprehensive analysis and sought stakeholder input on the continuation of this and other advisory committees abolished in statute to determine if there was a need to re-create any of the committees in rule. The list of recommendations was posted on the HHSC and DSHS websites for three weeks in September 2015. No comments were received regarding the recommended discontinuation of the Youth Camp Training Advisory Committee.

Proposed Motion:

Motion to recommend HHSC approval for publication of rules contained in agenda item # 4.e.

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| Approved by Assistant Commissioner/Director: Kathy Perkins | | Date: 1/26/2016 |
| Presenter: Jon Huss | Program: Environmental & Consumer Safety | Phone No.: 512-834-6687 |
| Approved by CPEA: Carolyn Bivens | | Date: 1/26/2016 |

Title 25. Health Services
Part 1. Department of State Health Services
Chapter 265. General Sanitation
Subchapter B. Texas Youth Camps Safety and Health
Amendment §265.29

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), proposes an amendment to §265.29, concerning the Youth Camp Training Advisory Committee.

BACKGROUND AND PURPOSE

The purpose of the amendment is to implement the repeal of Health and Safety Code, §141.0096, by Senate Bill (SB) 277, 84th Legislature, Regular Session, 2015, which abolished the Youth Camp Training Advisory Committee. Section 265.29 currently includes the Youth Camp Training Advisory Committee and the Youth Camp Advisory Committee. This amendment will remove the Youth Camp Training Advisory Committee from §265.29.

The Youth Camp Training Advisory Committee was created by the Legislature in 2005 to advise the department and the executive commissioner in the development of criteria and guidelines for the training and examination program on sexual abuse and child molestation for staff and volunteers of youth camps.

The Youth Camp Training Advisory Committee was one of several advisory committees recommended for abolishment by the Sunset Advisory Commission during the 2014 review of the department. Subsequent to the repeal of the statutory requirements for this and other committees, the commission conducted a comprehensive analysis and sought stakeholder input on the continuation of the advisory committees abolished in statute to determine if there was a need to recreate any of the committees in rule.

No comments were received regarding the discontinuation of the Youth Camp Training Advisory Committee. The department will continue to obtain input as needed on youth camp training through the Youth Camp Advisory Committee and ongoing interactions with youth camp representatives.

SECTION-BY-SECTION SUMMARY

Existing §265.29(b) is being deleted to remove references to the Youth Camp Training Advisory Committee, abolished by SB 277.

The amendment to §265.29(c) renumbers and renames subsection (b) to reflect section reorganization and the procedures for the Youth Camp Advisory Committee.

FISCAL NOTE

Jon Huss, Section Director, Environmental and Consumer Safety Section, has determined that for each year of the first five years that the section will be in effect, there will be no fiscal implications to the state or local governments as a result of enforcing or administering the section as proposed.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Huss has also determined that there will be no adverse impact on small businesses or micro-businesses required to comply with the section as proposed. This was determined by interpretation of the rule that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the section as proposed.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no anticipated negative impact on local employment.

PUBLIC BENEFIT

In addition, Mr. Huss has also determined that for each year of the first five years that the section will be in effect, the public will benefit from adoption of the section. The public benefit anticipated from enforcing or administering the section is to better ensure the health and safety of children attending youth camps.

REGULATORY ANALYSIS

The department has determined that this is not a “major environmental rule” as defined by Government Code, §2001.0225. “Major environmental rule” is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed amendment does not restrict or limit an owner’s right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Carolyn Bivens, Department of State Health Services, P. O. Box 149347, Mail Code 1911, Austin, Texas 78714-9347, (512) 776-2370, or by

email to Carolyn.Bivens@dshs.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendment is authorized by Health and Safety Code, §141.008, which authorizes the Executive Commissioner of the Health and Human Services Commission to adopt rules necessary to administer the youth camp program; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner of the Health and Human Services Commission to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The amendment affects Government Code, Chapter 531, and Health and Safety Code, Chapters 141 and 1001.

Title 25. Health Services.
Part 1. Department of State Health Services.
Chapter 265. General Sanitation.
Subchapter B. Texas Youth Camps Safety and Health

Legend: (Proposed Amendment)

Single Underline = Proposed new language

[Bold, Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision.

§265.29. Youth Camp Committee **[Committees]**.

(a) (No change.)

[(b) Training advisory committee.]

[(1) Training advisory committee appointment. The commissioner or his designee shall appoint a training advisory committee to advise the department and the executive commissioner in the development of criteria and guidelines for the training and examination.]

[(2) Training advisory committee membership. The training advisory committee consists of not more than nine members including at least two members who represent the general public; and other members, who include experienced camping professionals representing the camping communities of this state, representatives of youth camps selected by the department, and representatives of the Council on Sex Offender Treatment established under Occupations Code, Chapter 110.]

[(3) Filling a vacancy on the training advisory committee. Any vacancy on the training advisory committee will be filled by the department in the same manner as other appointments to the training advisory committee.]

[(4) Meetings. The advisory committee shall meet at the call of the commissioner.]

(b) [(c)] Procedures. **[Both committees.]**

(1) Staggered terms of service. Committee members shall serve for staggered six-year terms, with the terms of three members expiring on August 31 of each odd-numbered year.

(2) Adoption of committee rules of conduct and election of officers. The committee may adopt rules for the conduct of its own activities and may elect from among its members a chairperson, a vice-chairperson, and a secretary.

(3) Committee quorum. A simple majority of the members of the committee who are statutorily required to be appointed shall constitute a quorum for the purpose of transacting official business.

(4) Committee meetings announced. The committee is not a "governmental body" as defined in the Open Meetings Act. However, in order to promote public participation, each meeting of the committee shall be announced and conducted in accordance with the Texas Government Code, Open Meetings Act, Chapter 551.

(5) Compensation or reimbursement of expenses. A committee member may not receive compensation or reimbursement of expenses for serving on the **[a youth camp]** committee.

(6) Presiding officer. The **[Each]** committee shall annually select from among its members a chair who will serve as the presiding officer of the committee. The presiding officer of the committee shall preside over the committee.

(7) Reports. The presiding officer shall file an annual written report with the department.

(A) The report may list the meeting dates of the committee and any subcommittees, the attendance records of its members, a brief description of actions taken by the committee, a description of how the committee has accomplished any specific tasks officially given to the committee, the status of any rules that were recommended by the committee, and anticipated activities of the committee for the next year.

(B) The report shall cover the meetings and activities in the immediate preceding 12 months and shall be filed with the department. The report shall be signed by the presiding officer.

(8) Committee abolished. By October 1, 2021, the executive commissioner will initiate and complete a review of the committee **[committees]** to determine whether the committee **[committees]** should be continued, consolidated with another committee, or abolished. If the **[a]**committee is not continued or consolidated, the committee shall be abolished on that date.